IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.09.2007

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THE HONOURABLE MR.JUSTICE M.CHOCKALINGAM

W.P.NOS.5419 AND 9883 OF 2007
AND
M.P.NOS.2 AND 2 OF 2007

D.Ganesan .. Petitioner in W.P.No.5419 of 2007

S.Duraisamy .. Petitioner in W.P.No.9883 of 2007

Vs.

1.The Superintending Engineer,
Salem Electricity Distribution Circle,
Tamil Nadu Electricity Board,
Salem-14.
2.The Chief Engineer/Personnel,
Tamil Nadu Electricity Board,
800, Anna Salai,
Chennai-600 002. .. Respondents 1 and 2 in both the petitions

3.The Executive Engineer,
Operation and Maintenance/
Salem East,
Tamil Nadu Electricity Board,
Salem-14. .. Respondent No.3 in W.P.No.9883 of 2007

These writ petitions have been preferred under Article 226 of the Constitution of India praying for the issue of a writ of certiorari to call for the records of the first respondent in Memo Nos.319-4/Adm.2/A2/F.1(Select List)/2007, dated 5.2.2007 and quash the same.

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For Petitioner
in both WP's : Mr.V.Radhakrishnan, SC

For Respondents
in both WP's : Ms.V.Yamuna Devi

COMMON ORDER

This order shall govern the two writ petitions, namely W.P.Nos.5419 and 9883 of 2007.

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2.The petitioners seek to quash the memo issued by the first respondent by way of issuing writ of certiorari.

3.The affidavits filed in support of the petitions are perused. The court heard the learned counsel on either side.

4.Concedingly, the petitioners in these writ petitions were appointed as Helpers by the Electricity Board. Subsequently, both of them were promoted as Commercial Assistants, since they had necessary qualifications. They were eligible to get further promotion as Commercial Inspectors and thereafter, as Foreman I Grade. A settlement was entered into under Section 12(3) of the Industrial Disputes Act between the Tamil Nadu Electricity Board and the affiliated unions on 15.10.2005 for revision of workload and also revision of wages. In the memorandum of settlement, it was agreed between the Board and the Workmen that the Board would reintroduce the double channel promotion for the regular work establishment category in the distribution circles. As per the settlement, options were invited from the workmen. Accordingly, both the petitioners, who were working as Commercial Assistants, placed their options that they should be promoted as Line Inspectors, but they were now posted as Lineman/Wireman by the orders under challenge and under these circumstances, these writ petitions have been brought forth by the petitioners challenging these orders.

5.In support of these petitions, the learned Senior Counsel for the petitioners would submit that once there was settlement entered into between the Electricity Board and the Workmen and it was also in force and options were called for and the petitioners, who were working as Commercial Assistants during the relevant period, gave their options for promoting them as Line Inspectors, now they have been posted as Lineman/Wireman, which was against the settlement entered into between the parties and also against the options that were given and it would defeat the terms of the settlement and also the purpose for which the options were called for and under these circumstances, both the orders have got to be quashed.

6.The learned counsel for the respondents, on the contrary, would submit that if the petitioners, who were working as Commercial Assistants during the relevant period, were promoted as Line Inspectors, so many vacancies would arose and it would create so many hardship and havoc in the field and under these circumstances, they were placed as Lineman/Wireman and hence, there is no merit in these writ petitions and hence, they have got to be dismissed.

7.After hearing the submissions made and looking into the materials available, the court is of the considered opinion that it is a fit case where the request of the petitioners have got to be granted. It is not in controversy that both the petitioners, during the relevant time, were working as Commercial Assistants in the Electricity Board. It is an admitted position that there was a settlement entered into between the

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Electricity Board on one side and the affiliated Unions on the other side under Section 12(3) of the Industrial Disputes Act on 15.10.2005. It could be seen from the settlement that on the basis of the request of the Unions, it was agreed to reintroduce the double channel promotion for the regular work establishment category. The existing employees may be given one more opportunity to give option of their choice and line of promotion as Commercial Assistant-Commercial Inspector- Foreman or Wireman-Line Inspector/Foreman based on their seniority in the category of Helper. The settlement between the parties would make it clear that options were to be invited from the employees.

8.It is also not in controversy that the petitioners, who were working as Commercial Assistants during the relevant time, have placed their options to be promoted as Line Inspectors. On the contrary, by the impugned orders under challenge, they were posted as Lineman/Wireman. Once settlement was entered into under Section 12(3) of the Act between the Electricity Board and the Unions, of which the petitioners were members and it is also in force, both sides have to strictly follow the terms of the settlement. In the instant case, the Electricity Board has violated the terms and has posted the petitioners as Lineman/Wireman. The court is able to notice that the Electricity Board has not only violated the terms of the settlement, but has also defeated the purpose for which the options were intended to be asked for and thus, the petitioners, who were working as Commercial Assistants, as per the options, should have been promoted as Line Inspectors.

9.From the submissions made, it is quite clear that the settlement was entered into and the options, as per the settlement, were to be called for only for the purpose of promotion. If to be so, the petitioners, who were the Commercial Assistants, should have been promoted as Line Inspectors as per the options. Under these circumstances, without any hesitation, both the orders have got to be quashed. Accordingly, they are quashed. A direction is issued to the Electricity Board to strictly follow the settlement entered into between the parties, as referred to above, within a period of eight weeks herefrom. Accordingly, both the writ petitions are disposed of. No costs. Consequently, the connected MPs are closed.

vvk

Sd/
Asst. Registrar

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Sub Asst.Registrar

To

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Operation and Maintenance/
Salem East,
Tamil Nadu Electricity Board,
Salem-14.

+ One cc to Ms. V. Yamuna Devi, Advocate sR 54066
+ Two cc to Mr. V. Radhakrishnan, Advocate sR 56934

MDR (co)
sg 17/9/07

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